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BEFORE THE
U.S. DEPARTMENT OF TRANSPORTATION 91 MS '25 11 3: 00
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

In Re: Notice of Proposed
Rulemaking: Gas Gathering
Line Definition,
49 CFR Part 192

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RSPA - 98 - 4868 - 11

Docket No. PS-122, Notice 1

COMMENTS OF THE AMERICAN GAS ASSOCIATION

Introduction:

The American Gas Association (A.G.A.) files these comments in response to a notice of proposed rulemaking (NOPR) issued by the Department of Transportation, Research and Special Programs Administration (RSPA). 56 Fed. Reg. 48,505 (September 25, 1991). The Department is proposing to revise its current definition of "gas gathering line" in 49 C.F.R. §192.3. A.G.A. is a national trade association composed of nearly 250 natural gas transmission and distribution companies. These companies account for approximately 85 percent of the nation's total annual natural gas utility sales. Many of our members operate pipelines that would be affected by RSPA's proposed redefinition of gathering lines, therefore we have a direct interest in this rulemaking.

Specific Comments on the Proposed Definition of Gas Gathering Lines

The current definition of "gathering lines" at 49 C.F.R. Section 192.3 is "a pipeline that transports gas from a current production facility to a transmission line or main." RSPA proposes to change the end point of a gathering line as the inlet of a processing plant, or if processing is not required, the point of custody transfer, or if custody is not transferred, the last point where gas from the same or adjacent production fields is

commingled. RSPA would add a further limitation that no line classified as transmission according to the rules of the Federal Energy Regulatory Commission (FERC) could be classified as gathering according to RSPA rules. The rationale for this change is that operators and state regulators have disagreed how the current definition should be applied in specific cases, although RSPA provides no examples of such disagreements.

A.G.A. strongly opposes this proposed change in the definition of gathering lines because:

1. It will produce no public safety improvement.
2. It will cause thousands of miles of gathering lines to be reclassified as transmission lines, resulting in over \$100 million of expense with no commensurate safety benefits.
3. It will result in many small producers going out of business.
4. It will exacerbate, not resolve, disputes over the classification of specific lines as transmission or gathering.

RSPA Has Failed To Identify Any Public Safety Benefits

It is axiomatic that any regulation promulgated pursuant to the Natural Gas Pipeline Safety Act should have some identifiable safety benefit. This proposal fails this test. Nowhere in the NOPR does RSPA suggest that public safety is in any way at risk because state regulators and pipeline operators may disagree on the end point of rural gathering systems. No accidents are cited by RSPA as resulting from this situation, yet a significant amount of time and effort on the part of RSPA and industry have been expended on this rulemaking. Those resources would be better spent on genuine safety issues such as preventing third party damage, which has caused nearly two out of three incidents reported to RSPA since 1970. Should RSPA proceed to change the definition of gathering

lines as proposed, the industry would expend millions of dollars and countless hours of limited manpower that could be better spent elsewhere. We urge RSPA to leave the existing definition unchanged.

Should RSPA choose to revise the definition of gathering line, it should do so by categorizing pipelines according to their potential public safety risk. None of the criteria included in the proposed definition have any identifiable relationship to the level of risk posed by a pipeline. For example, the ownership of the natural gas inside a certain pipeline segment does not affect safety, yet one of the proposed criteria is the point of custody transfer. The most clear measure of safety risk is embodied in the current rules, which state that gathering lines are subject to RSPA regulations if they are located in populated areas. We believe that this definition has proved effective in minimizing the public risk from gathering line accidents, as evidenced by the fact that no accidents are cited by RSPA in the NOPR as justification for the redefinition.

RSPA Underestimates the Economic Impact on Pipeline Operators

RSPA believes that very few pipelines would be reclassified as transmission under its proposed definition, and those pipelines would only be subject to the operating and maintenance requirements of Part 192 regulations. RSPA provides no supporting evidence for this hypothesis. On the contrary, A.G.A.'s analysis finds that thousands of miles of gathering lines would be reclassified as transmission lines under the proposed definition, mainly due to two provisions. First, (4)(iii) states that any part of a pipeline that transports gas downstream in any facility subject to FERC jurisdiction cannot be a gathering line. In the preamble, the NOPR states that "the Natural Gas Act does not apply

to gathering lines; thus, care must be taken not to define interstate transmission facilities subject to FERC jurisdiction as gathering lines.” We fail to see the logic in this conclusion.

RSPA and FERC definitions differ in many important respects because the purposes of the two agencies and their statutory authorities are significantly different. FERC rules are intended to protect natural gas consumers by promoting economic efficiency in natural gas transportation in interstate commerce, while RSPA rules are intended to promote public safety. FERC’s determination of the extent to which certain pipelines must be regulated to achieve its statutory responsibilities must not be substituted for RSPA’s determination of the public safety risk of natural gas lines. The issues involved in economic and pipeline safety regulation are significantly different.

The second onerous provision is Item (2) of the definition which states that, in the absence of a processing plant, gathering lines end at the point of custody transfer. The effect of this provision would be to prohibit anyone but the royalty owner from operating a gathering system in producing fields where processing is not necessary, since gathering would end where the owner of the well transfers custody to another party. In some regions of the country, many different owners of production may operate within the same or adjacent production fields, and third parties may operate the gathering systems. All of the pipelines operated by that third party would be classified as transmission lines according to RSPA’s proposed definition. However, if the gathering line owner bought out the well owners, then the pipelines would remain gathering lines up to the last point downstream where gas from the area was collected, because there would no longer be custody transfer at the wellheads. The ownership of the gas in the pipeline, as well as the

issue of custody transfer, are clearly irrelevant to the issue of public safety, and RSPA should remove custody transfer from its proposed definition.

RSPA states “the proposed definition of ‘gathering line’ is generally consistent with RSPA’s enforcement practices regarding gathering lines, and, therefore will not result in an annual effect of \$100 million or more.” Responses we have received from our member companies contradict this conclusion. Primarily because of the two criteria for classification discussed above, thousands of miles of gathering lines will be reclassified as transmission lines and become subject to Part 192 rules for the first time. Section 192.14(a)(4) requires that each pipeline previously not subject to Part 192 be pressure tested before conversion to service subject to Part 192. It appears that this would apply to gathering lines reclassified as transmission by this proposed rule.

In addition, Section 192.619 requires that the maximum allowable operating pressure (MAOP) be set at the lowest of six pressures, including the highest pressure to which the pipeline was subjected in the previous 5 years, the original test pressure divided by 1.25, the design pressure of the weakest component of the pipeline, or the maximum safe pressure based on the history of the pipeline. In many cases, the records necessary to make all six determinations may not be available, requiring the operator to perform uprating #according to requirements of Section 192.557.

Our member companies indicate that the cost of converting gathering lines to transmission lines subject to Part 192 would exceed \$100 million, making this a major rule under Executive Order 12291. Since RSPA has not identified any safety benefits from this proposed rule, the cost benefit analysis required by E.O. 12291 will find that costs will

greatly exceed the benefits.

RSPA Overlooks Significant Impacts on Small Entities

Furthermore, some of the gathering lines that would be reclassified under the proposed definition serve numerous small production facilities characterized by low pressures and low flow rates. The quantity of gas flowing in some of these systems may not justify the additional cost of converting the lines to transmission lines; therefore, many small producers could be put out of business when the gathering lines to their wells are abandoned. Contrary to RSPA's assertion, this rule could have a significant, negative economic impact on a substantial number of small entities, such as independent producers.

RSPA'S Proposed Definition Will Cause More Confusion, not Less

Comments from our member companies have indicated there is much confusion about how this rule would apply, leading us to believe that the interpretation of this definition will result in more, not fewer, disputes about the appropriate classification of particular pipelines. Some companies foresee little impact while other, similar companies foresee costs totalling tens of millions of dollars. Obviously, these companies are interpreting the definition differently, and we expect that RSPA will see wide disparities in the economic impact projected in many of the individual comments it receives.

Conclusion

RSPA Should Withdraw this Proposed Rule

Because this redefinition poses substantial costs with no commensurate safety benefits and would have major economic impacts on our members and a substantial

number of small businesses, A.G.A. strongly urges RSPA to withdraw its proposed definition of gathering lines. If the only problem RSPA can identify involves differing interpretations of the current definition, RSPA could publish guidelines along the lines of this **proposal**, but without the references to FERC and to custody transfer, which are inappropriate criteria for determining the endpoints of gathering systems. Another alternative would be to ask the Gas Piping Technology Committee, which publishes guide material to assist operators with compliance with Part 192, to write guide material for classifying gathering lines.

Respectfully submitted,

THE AMERICAN GAS ASSOCIATION

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